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APR 2003

**FAX**

DATE: March 24, 2003

International Division

TO: NAME & FIRM	PHONE #	FAX #
Office of Petitions United States Patent and Trademark Office		1-703-308-6916

FROM: Mark B. Eisen

**FAX RECEIVED**

OUR FILE: 645-10/MBE

MAR 24 2003

TOTAL PAGES SENT (including this page): 8

PETITIONS OFFICE

Confirmation of facsimile to follow:  Yes  No, unless requested

If you do not receive all the pages of this facsimile clearly,  
please call Liz Forster at (416) 971-7202.

**NOTES:**

**Re: U.S. Patent Application No. 09/646,733**

*Documents Enclosed: Transmittal letter (in duplicate);  
Petition for Revival of an Application for Patent Abandoned  
Unintentionally, Verified Declaration, and copy of a PTO  
Communication dated December 19, 2002.*

This fax may contain information which is confidential and privileged. If you are not the intended recipient of this fax, you are not permitted to make use of this fax.

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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>		Docket Number (Optional)
First named Inventor:	LUSCOMBE, John Stanbury	
Application No.:	09/646,733	Art Unit: unknown
Filed:	March 19, 1999	Examiner: unknown
Title:	WATER SANITIZING SYSTEM	
<b>FAX RECEIVED</b>		
Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231		MAR 24 2003 <b>PETITIONS OFFICE</b>
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.		
<b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</b>		
NOTE: A grantable petition requires the following items:		
<ul style="list-style-type: none"> <li>(1) Petition fee;</li> <li>(2) Reply and/or issue fee;</li> <li>(3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and</li> <li>(4) Statement that the entire delay was unintentional.</li> </ul>		
1. Petition fee		
<input checked="" type="checkbox"/> Small entity-fee \$650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.		
<input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(m))		
2. Reply and/or fee		
A. The reply and/or fee to the above-noted Office action in the form of <u>Basic National filing fee</u> (identify type of reply): <input checked="" type="checkbox"/> has been filed previously on <u>January 11, 2002</u> , <input type="checkbox"/> is enclosed herewith.		
B. The issue fee of \$ _____. <input type="checkbox"/> has been paid previously on _____. <input type="checkbox"/> is enclosed herewith.		
C. (X) Signed Declaration was filed on November 13, 2001.		

[Page 1 of 2]

**Burden Hour Statement:** This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

04/08/2003 GFREY1 00000001 500663 09646733

01 FC:2453 650.00 CH



**DIMOCK STRATTON CLARIZIO LLP**  
*Barristers and Solicitors • Patent and Trade-mark Agents*

**MARK B. EISEN**  
 Ext. 242  
 m.eisen@dimock.com

*Certified by the Law Society as a Specialist  
 in Intellectual Property (Patent) Law*

**SENT BY FACSIMILE (703) 308-6916**

March 24, 2003

Assistant Commissioner for Patents  
 Box DAC  
 Washington, D.C. 20231  
 U.S.A.

**COPY**

**Attention: Office of Petitions**

Dear Sir:

**FAX RECEIVED**

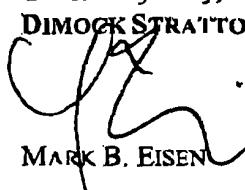
**Re: United States Patent Application No. 09/646,733**  
**Title: WATER SANITIZING SYSTEM**  
**Applicant: John Stanbury Luscombe**  
**Our File: 645-10/MBE**

**MAR 24 2003**  
**PETITIONS OFFICE**

We enclose herewith a Petition for Revival of an Application for Patent Abandoned Unintentionally, a Verified Declaration, and a copy of a PTO Communication dated December 19, 2002.

Please charge the Petition fee as set forth in 37 CFR 1.17(m) in the amount of \$650.00 to our Deposit Account No. 500663. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment in the enclosed fees to our Deposit Account No. 500663. A signed copy of this letter is enclosed for this purpose.

Yours very truly,  
**DIMOCK STRATTON CLARIZIO LLP**

  
**MARK B. EISEN**

MBE:JF

Encls.      Signed copy of this letter  
 Petition for Revival of an Application for Patent Abandoned Unintentionally  
 Verified Declaration  
 copy of a PTO Communication dated December 19, 2002

PTO/SB/64 (10-01)

Approved for use 10/31/2002, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

March 24, 2003

Date



Signature

Telephone  
Number: (416) 971-7202

Mark B. Eisen (Reg. No. 330858)

Typed or printed name

20 Queen St. W., Suite 3202, Box 102

Address

Toronto, Ontario, Canada M5H 3R3

Enclosures:  Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: Copy of PTO Communication dated December 19, 2002

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

March 24, 2003

Date



Signature

Mark B. Eisen (Reg. No. 330858)  
Type or printed name of person signing certificate

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application Serial No. 09/746,733

Group Art Unit: unknown

Applicant: LUSCOMBE, John Stanbury

Examiner: unknown

Filing Date: March 19, 1999

Attorney's Ref.: 645-10/MBE

Title: WATER SANITIZING SYSTEM

To: The Commissioner of Patents and Trademarks  
Washington, D.C. 20231**FAX RECEIVED****MAR 24 2003**

Dear Sir:

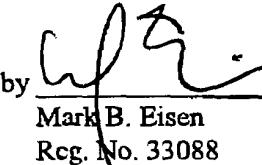
**PETITIONS OFFICE****VERIFIED DECLARATION**

The undersigned being hereby warned that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such wilful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares:

1. That the entire delay in the failure to pay the Basic National fee as set out in the accompanying Petition for Revival was unintentional.
2. That all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Executed at Toronto, Ontario, Canada on March 24, 2003.

JOHN STANLEY LUSCOMBE

by   
Mark B. Eisen  
Reg. No. 33088

MBE/



19 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

COPY

Cynthia J. Ledgley  
 Dimock Stratton Clarizio  
 20 Queen St W., Suite 3202, Box 102  
 Toronto Ontario  
 CANADA M5H 3R3

In re Application of  
 LUSCOMBE  
 Application No.: 09/646,733  
 PCT No.: PCT/CA99/00233  
 Int. Filing Date: 19 March 1999  
 Priority Date: 25 March 1998  
 Attorney Docket No.: 645-10/CJL  
 For: WATER SANITIZING SYSTEM

COMMUNICATION

FAX RECEIVED

MAR 24 2003

PETITIONS OFFICE

This is in response to applicant's communication originally filed in the United States Patent and Trademark Office (USPTO) on 11 January 2002. This is also in response to a communication filed on 01 August 2002.

#### BACKGROUND

On 19 March 1999, applicant filed international application No. PCT/CA99/00233 which claimed a priority date of 25 March 1998, and which designated the United States.

On 22 October 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended and expired 30 months from the priority date, i.e. 25 September 2000.

On 21 September 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a small entity statement and authorization to charge the \$485 basic national fee to applicant's deposit account. However, applicant failed to provide a deposit account number. As a result, the application went abandoned.

On 13 September 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventors and the surcharge for filing the oath or declaration after the thirty month period (\$65 for a small entity) within two months of the mail date of the notice or by 13 November 2001. Extensions of time were available.

On 13 November 2001, applicant responded to the Notification of Missing Requirements with an executed declaration and \$65 surcharge.

Application No.: 09/646,733

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On 10 December 2001, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed indicating that applicant failed to provide the full U.S. Basic National Fee by the 30 months deadline (37 CFR 1.495(b)(2)) and the application was considered abandoned.

On 11 January 2002, applicant responded to the Notification of Abandonment with authorization to charge the basic national fee to the deposit account. Applicant also filed a request for a two month extension of time. This communication is not found in the application file. However, applicant filed a copy of the 11 January 2002 communication via facsimile on 01 August 2002 along with the present communication, in effect, requesting review of the application file and confirmation that the application is in good standing.

### DISCUSSION

Applicant's request for entry into the national stage failed to provide payment of the basic national fee. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495(b) and (h), the application was abandoned for failure to pay the basic national fee by the 30 month deadline.

At the outset, the request for an extension of time is an inappropriate response to the Notification of Abandonment and is dismissed. No fees were charged to applicant's deposit account in this regard. Applicant authorized the U.S. basic national fee (\$445) to be charged to his deposit account.

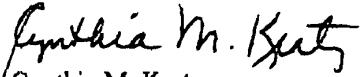
To revive the abandoned application, applicant is advised to file a petition to revive under 37 CFR 1.137(a) or (b). Applicant is also advised to review *MPEP* §711.03(c) III C for a detailed discussion of requirements of filing a petition to revive. It is noted that petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

### CONCLUSION

The application remains **ABANDONED**. The basic national fee of \$445 will be charged to applicant's deposit account.

The application will be held in the PCT Legal Office to await applicant's reply.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467  
Facsimile: (703) 308-6459